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Amendment
Attorney Docket No. H01.2I-12068-US01

Remarks

This Amendment is in response to the Office Action dated September 20, 2006. In the Office Action, the specification was objected to because of an informality; claims 7 and 8 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which applicant regards as the invention; claims 1, 3-5 and 9-11 were rejected under 35 USC 102(b) as being anticipated by Fay (4,192,017); claim 2 was rejected under 35 USC 103(a) as being unpatentable over Fay in view of Gordon et al. (6,170,084); claims 6 and 7 were rejected under 35 USC 103(a) as being unpatentable over Fay in view of Bree (4,767,647); and claim 8 was rejected under 35 USC 103(a) as being unpatentable over Fay in view of Koumans et al. (6,615,409).

The following comments are presented in the same order, with section headings and paragraph numbers, as the Office Action.

Specification

In the Office Action, the disclosure was objected to because of an informality. On page 2 of this Amendment, Applicant has amended paragraph 0036 of the specification in the manner indicated by Examiner in the Office Action. Applicant requests withdrawal of the objection.

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35 USC § 112

In the Office Action, claims 7 and 8 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claim 7 to delete "which are preferably imprinted" and added new claim 12 directed towards foils being imprinted. Applicant has amended the specification to include a chemical description of the Iriodin® pigment and amended claim 8 to include that chemical description instead of Iriodin®. Applicant requests withdrawal of the rejection.

35 USC § 102

In the Office Action, claims 1, 3-5 and 9-11 were rejected under 35 USC 102(b) as being anticipated by Fay (4,192,017). Applicant asserts that Fay does not teach a "plastic material has a VICAT-softening temperature of from 60°C to 140°C, above which the material is deformable and remains in its formed shape below the softening temperature," as recited in instant independent claim 1. To anticipate, a reference must teach each and every element of the claim at issue (MPEP 2131). Fay states that the extrusion for the band 14 is "comprised of an extruded plastic such as polyethylene, polyurethane, polyvinyl chloride, or any equivalent thereof" (col. 2, lines 46-48). Fay does not teach that the extruded plastic has a VICAT-softening temperature of from 60°C to 140°C, as recited in instant independent claim 1.

Thermoplastic polyurethane is a subset of polyurethanes. There are thermoplastic polyurethanes that have a VICAT-softening temperature that is outside the temperature range recited in instant independent claim 1. For example, Bayer Material Science Texin® 245 Urethane Thermoplastic Elastomer has a VICAT softening point of 148°C and Coim Laripur®

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LPR70D60 PTMG Polyether Polyurethane has a VICAT softening point of 152°C (information obtained from MatWeb.com searching for urethane thermoplastic polymers). For at least this reason, Fay does not anticipate instant independent claim 1 from which claims 3-5 and 9-11 depend.

35 USC § 103

7. In the Office Action, claim 2 was rejected under 35 USC 103(a) as being unpatentable over Fay in view of Gordon et al. (6,170,084). The Office Action asserts that Gordon "teaches that it is known to form visor 210 from thermoplastic urethane based on polyether or polyester." Applicant disagrees. Gordon states that the "visor 210 may be made of thermoplastic, injection molded plastic, cast urethane, or other materials" (col. 2, lines 30-32). Gordon does not specify any specific type of thermoplastic polymer let alone thermoplastic urethane, based on polyether or polyester. Applicant notes that there are many types of thermoplastic polymers and thermoplastic urethane is only one type of thermoplastic polymer. As discussed above, Fay does not teach or suggest all the elements recited in instant independent claim 1, from which claim 2 depends. The addition of thermoplastic material of Gordon does not address the failure of Fay to teach or suggest all the elements recited in instant independent claim 1. For at least this reason, dependent claim 2 is in condition for allowance and Applicant requests withdrawal of the rejection.

8. In the Office Action, claims 6 and 7 were rejected under 35 USC 103(a) as being unpatentable over Fay in view of Free (4,767,647). As discussed above, Fay does not teach or suggest all the elements recited in instant independent claim 1, from which claims 6 and 7

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depend. The addition of the emblem of Bree formed by inserting a foil shape 18 into bezel 12 and dispensing fluent plastic material 16 onto the foil shape 18 (col. 5, lines 21-30) does nothing to address the failure of Fay to teach or suggest all the elements recited in instant independent claim 1. For at least this reason, dependent claims 6 and 7 are in condition for allowance and Applicant requests withdrawal of the rejection.

9. In the Office Action, claim 8 was rejected under 35 USC 103(a) as being unpatentable over Fay in view of Youmans et al. (6,615,409). As discussed above, Fay does not teach or suggest all the elements recited in instant independent claim 1, from which claim 8 depends. The addition of pigments incorporated into the plastic material from Youmans does nothing to address the failure of Fay to teach or suggest all the elements recited in instant independent claim 1. For at least this reason, dependent claim 8 is in condition for allowance and Applicant requests withdrawal of the rejection.

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Conclusion

Based on at least the above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-12 is requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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